

Notice of Allowability

Application No.

10/738,469

Examiner

Michael W. Talbot

Applicant(s)

BORSCHERT ET AL.

Art Unit

3722

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 4/3/06.
2. ☒ The allowed claim(s) is/are 1-13 and 16-22.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some* c) ☐ None of the:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|---|--|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892) | 5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 6. <input type="checkbox"/> Interview Summary (PTO-413),
Paper No./Mail Date _____. |
| 3. <input checked="" type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date <u>5/24/06</u> | 7. <input type="checkbox"/> Examiner's Amendment/Comment |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit
of Biological Material | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9. <input type="checkbox"/> Other _____. |

REASONS FOR ALLOWANCE

1. The declaration under 37 CFR 1.132 filed 03 April 2006 is sufficient to overcome the rejection of independent claim 1, and subsequently depending claims 2-13 and 16-22, based upon a specific reference combination, Cselle '034 in view of Ebenhoch at al. '740, applied under 35 U.S.C. 103(a).

2. The following is an examiner's statement of reasons for allowance:

Claims 1-13 and 16-22 are allowed.

Claim 1 is the independent claim.

Regarding claim 1, the prior art of record fails to anticipate or make obvious a twist drill having at least one flute including a third helical portion twisting in a direction opposite that of a second helical portion, solely or in combination, with the claimed construction of a twist drill having at least one flute having first, second and third helical portions wherein the second helical portion twists in a direction opposite that of the first helical portion.

Cselle '034 is the closest art of record.

Cselle '034 shows in Figures 6 and 6A the flute having a first positive helical portion (inside portion 240) between 0° and 50° (col. 1, lines 13-18) and a second helical portion twisting in a direction opposite of the first helical portion (col. 4, lines 9-22 and col. 5, lines 21-35) between -1° and -10° (col. 3, lines 16-24).

Cselle '034 still lacks the third helical portion having a twist in an opposite direction of the second helical portion. Even though a flute having three distinct portion is well known in the art, there is no motivation to modify Cselle '034 to include a third helical portion with a twist in an opposite direction to that of the second helical portion (straight flutes are not considered to meet the claim limitation of being in an opposite direction to either a positive or negative twist) since

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this specific helical transition from positive to negative and back to positive would result only from the knowledge gained from Applicant's disclosure.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

3. Any inquiry concerning the content of this communication from the examiner should be directed to Michael W. Talbot, whose telephone number is 571-272-4481. The examiner's office hours are typically 8:30am until 5:00pm, Monday through Friday. The examiner's supervisor, Mrs. Monica S. Carter, may be reached at 571-272-4475.

In order to reduce pendency and avoid potential delays, group 3720 is encouraging FAXing of responses to Office Actions directly into the Group at FAX number 571-273-8300. This practice may be used for filing papers not requiring a fee. It may also be used for filing papers, which require a fee, by applicants who authorize charges to a USPTO deposit account. Please identify Examiner Michael W. Talbot of Art Unit 3722 at the top of your cover sheet.



MWT
Examiner
30 May 2006

Monica S. Carter
MONICA CARTER
SUPERVISORY PATENT EXAMINER